

Libby

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Subject Helena Independent: Appeals court hears arguments in  
Libby asbestos case

## **Helena Independent: Appeals court hears arguments in Libby asbestos case**

By KATIE OYAN

HELENA, Mont. - A federal appeals court heard arguments Wednesday on an appeal of a pretrial ruling in the government's asbestos case against W.R. Grace & Co. and some of its former executives.

Earlier this year, Grace asked for the full 9th U.S. Circuit Court of Appeals to review a decision by a three-judge panel that allowed certain government witnesses to testify against the chemical manufacturer.

The 9th Circuit granted the request and heard arguments on the issue Wednesday afternoon; it was unclear when a decision would be issued.

The government had appealed a decision by U.S. District Judge Donald Molloy of Missoula that could have limited its witness list. The three-judge panel said the lower court had "exceeded its authority," and Grace appealed that ruling.

Last week, Grace lost a bid to challenge another court ruling that allowed one of the government's charges to stand.

The appeals court declined to reconsider a decision by three of its judges upholding the government's charge of "knowing endangerment" against Grace. The company had asked that a full panel of 9th Circuit judges review the decision.

Andrew Ames, a spokesman for the U.S. Department of Justice, said prosecutors were pleased with that ruling.

It moves the case "a step closer to trial," assuming Grace doesn't ask the U.S. Supreme Court to review the issue, said Allen M. Brabender, one of the Justice Department attorneys prosecuting the case.

Brabender told the Baltimore Sun he had hoped the case would go to trial in September 2005 but postponements and legal appeals of pretrial rulings have caused delays.

Grace spokesman Greg Euston said Wednesday that the company was disappointed with last week's ruling and is "evaluating its options." He declined further comment.

A 2005 indictment charged Grace and seven of its former managers, one of whom has since died, with conspiring to conceal health risks posed years ago by the company's Libby vermiculite mine, which closed in 1990. Hundreds of people in the northwest Montana town have fallen sick and many have died from exposure to the contaminated vermiculite ore.

An August filing with the Securities and Exchange Commission said Grace has "categorically denied any criminal wrongdoing and intends to vigorously defend itself at trial."

Last year, Grace was ordered to pay approximately \$55 million to the U.S. Environmental Protection Agency, which has performed cleanup of land and buildings in the Libby area.